

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

CIVIL REVISION APPLICATION No 2145 of 1995

For Approval and Signature:

Hon'ble MR.JUSTICE D.G.KARIA

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1. Whether Reporters of Local Papers may be allowed to see the judgements?
2. To be referred to the Reporter or not?
3. Whether Their Lordships wish to see the fair copy of the judgement?
4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder?
5. Whether it is to be circulated to the Civil Judge?

GSRTC THROUGH LEGAL ADVISOR

Versus

RATILAL JADAVJI CHIKANI

Appearance:

MR YS LAKHANI for Petitioners.

MR DU SHAH for respondent.

CORAM : MR.JUSTICE D.G.KARIA

Date of decision: 26/04/96

ORAL JUDGEMENT

Heard Mr. Kharadi, learned advocate for the petitioner. Concurrent findings and judgments of both the courts below arising from injunction application Ex.5 against termination of the plaintiff Bus Conductor from service, are under challenge in this revision application. The trial court, having found prima facie case and balance of convenience in favour of the plaintiff workman, has granted injunction as prayed and

the same came to be confirmed by the appellate court.

Mr. Kharadi contended that under sec. 9 of the Code of Civil Procedure, the civil court would have no jurisdiction to entertain such suits, the subject matter of which would be entertained by Industrial Court only. The issue as to jurisdiction was also raised before the appellate court and in Paras 21 to 25, the learned Judge, has concluded that in view of the decision rendered in the case of Ram Kumar Vs. State of Haryana, reported in A.I.R.1987 SC 2043, the civil court can have the jurisdiction to entertain and try the suit in the matter of termination of service and for consequential relief. Mr. Kharadi has relied upon the case of Jitendra Nath Biswas Vs. M/s. Empire of India and Ceylone Tea Co. and another, reported in A.I.R. 1990 SC 255., wherein the Supreme Court held, inter alia, that "Industrial Disputes Act not only confers the right on a worker for reinstatement and back wages if the order of termination or dismissal is not in accordance with the Standing Orders but also provided a detailed procedure and machinery for getting this relief". The scheme of the Industrial Disputes Act clearly excludes the jurisdiction of the Civil Court by implication in respect of remedies which are available under the Labour Laws, for which a complete procedure and machinery has been provided therein.

It appears that there are no pleadings with regard to Standing Orders, if any of the petitioners applicable or enforceable and that the same are under challenge by the plaintiff workman. Mr. Kharadi is not in a position to say that there are any such Standing Orders of the Corporation.

In the case of [The] Rajasthan State Road Transport Corporation And Another Vs. Krishna Kant, etc. reported in 1995 (2) G.L.H. 116, Supreme Court, dealing with the identical issue, held that Sec.9 of the Code of Civil Procedure- jurisdiction of Civil Court in respect of dispute regarding dismissal pursuant to disciplinary inquiry and dispute whether inquiry was conducted in accordance with standing orders would be barred; however when reliefs are based on general law of contract, suit would be maintainable.

In the above view of the matter and in view of the findings recorded by the learned Judge from Paras 21 to 25 of the judgment and also, there is no illegality or material irregularity so as to warrant exercise of jurisdiction of this court under sec. 115 of the Code of

Civil Procedure. Hence rejected.
